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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/662,077	09/12/2003	Eldon L. Decker	1887A1	9797

7590 08/08/2007
PPG INDUSTRIES, INC.
Intellectual Property Department
One PPG Place
Pittsburgh, PA 15272

EXAMINER

AHMED, SHEEBA

ART UNIT	PAPER NUMBER
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1773

MAIL DATE	DELIVERY MODE
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08/08/2007

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/662,077	DECKER ET AL.	
	Examiner	Art Unit	
	Sheeba Ahmed	1773	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2007.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-8, 10-15, 17-24, 26-31, 33-41, 43 and 44 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-8, 10-13, 15, 17-19, 21-29, 31, 33-37, 39-41 and 44 is/are rejected.
- 7) ☒ Claim(s) 3, 14, 20, 30 and 38 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Response to Amendment

1. Amendments to claims 1, 4, 6, 15, 18, 21, 23, 31, 34, and 39 are entered in the above-identified application. Claims 9, 16, 25, 32, and 42 are canceled. **Claims 1-8, 10-15, 17-24, 26-31, 33-41, 43 and 44 are pending.**

The Examiner would like to thank the Applicants for pointing out the typographical error in the listing of pending claims in the last Office Action however it appears that claims 40-44 were listed with the Remarks section of Applicants response and hence were not present with claims 1-39. Applicants are reminded that 37 CFR 1.121 requires that the claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment.

As a courtesy to the Applicants this action is not made final.

Declaration Under 37 CFR 1.132

2. The Declaration under 37 CFR 1.132 filed on May 24, 2007 is sufficient to overcome the rejection of claims 7, 8, 18, 24, 34, and 35 based upon 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1, 2, 4-8, 10-13, 15, 17-19, 21-29, 31, 33-37, 39-41, and 44 are rejected under 35 U.S.C. 102(b) as being anticipated by Babler (US 5,997,627).

Babler discloses a method of using pigment compositions to prepare coating compositions which yield thin film finishes having a 3D appearance (col. 1, lines 9-12). The pigment compositions comprise organic fillers and colored pigments and suitable colored pigments include organic pigments listed in col. 2, lines 36-45 and include azo pigments. The pigment composition is prepared by mixing the pigment with the filler and applying the coating composition to a substrate to yield a thin film. The coating composition is generally heat curable and includes a binder (Col. 3, lines 60-66 and Col. 4, lines 1-20). The colored pigments are preferably smaller than 0.1 microns (Column 4, lines 3-65). The coatings can be provided with one or more layers of clear or additional effect coating. The heat curable acrylic/melamine resin combination coatings are used as binders for the clear coating. The clear coatings may also contain polymer soluble dyes such as phthalocyanine dyes, metal complexes of azo dyes and fluorescent dyes (Column 6, lines 37-47). The pigment composition layer taught by Babler is the same as the lower layer of the instantly claimed invention (hence inherently meeting the limitation that the coating layer has a color value of L* less than 40) and the clear layers

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taught by Babler are the same as the upper layer of the instantly claimed invention. All limitations of claims 1, 2, 4-6, 10-13, 15, 17-19, 21-29, 31, 33-37, 39-41, and 44 are disclosed in the above reference.

Response to Arguments

4. Applicant's arguments filed on May 24, 2007 have been fully considered but they are not persuasive. Applicants traverse the rejection of claims 1, 2, 4-8, 10-13, 15, 17-19, 21-29, 31, 33-37, 39-41, and 44 and submit that Babler does not specify a coating layer having a color value of L^* less than 40 and that Babler does not disclose or suggest any coating a multi-layer coating wherein the color effect exhibited is dependent on the intensity of light. The Examiner disagrees. The Examiner has taken the position that the pigment composition layer taught by Babler is the same as the lower layer of the instantly claimed invention and must inherently meet the limitation that the coating layer has a color value of L^* less than 40 and exhibit a color effect dependent on light intensity. Hence, the above rejection is maintained.

Allowable Subject Matter

5. Claims 3, 14, 20, 30, and 38 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

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Conclusion

6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sheeba Ahmed whose telephone number is (571)272-1504. The examiner can normally be reached on Monday-Friday from 8am to 2pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Carol Chaney can be reached on (571)272-1284. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent

Application Information Retrieval (PAIR) system.


Sheeba Ahmed
Art Unit 1773
August 1, 2007